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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.        | CONFIRMATION NO.       |
|---|-------------|----------------------|----------------------------|------------------------|
| 10/717,698  | 11/20/2003  | Joseph A. Pruitt     | 10.83                      | 9310                   |
| 7590<br>Gunnar G. Leinberg, Esq.<br>Nixon Peabody LLP<br>Clinton Square<br>PO Box 31051<br>Rochester, NY 14603-1051 |             | 07/27/2007           | EXAMINER<br>VETTER, DANIEL |                        |
|   |             |                      | ART UNIT<br>3628           | PAPER NUMBER           |
|   |             |                      | MAIL DATE<br>07/27/2007    | DELIVERY MODE<br>PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |
|------------------------------|------------------------|---------------------|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |
|                              | 10/717,698             | PRUITT ET AL.       |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |
|                              | Daniel P. Vetter       | 3628                |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 May 2007.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-67 is/are pending in the application.  
 4a) Of the above claim(s) 1-43 and 51-67 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 44-50 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 20 November 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/12/2004, 10/5/2004, 5/4/2006</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____                          |

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## DETAILED ACTION

1. Claims 44 and 50 were amended in the response filed May 23, 2007. Claims 1-67 are currently pending in this application.

### *Election/Restrictions*

2. Applicant's election without traverse of claims 44-50 in the reply filed on May 23, 2007 is acknowledged.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 44-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over dePinto, et al., U.S. Pat. Pub. No. 2002/0194112 in view of Force, et al., U.S. Pat. Pub. No. 2003/0130945 (Reference B of the attached PTO-892).

5. As per claim 44, dePinto, et al. teaches a method for determining a service provider in a computer network, comprising: (a) performing a transaction, by a client, with a first service provider (¶ 0074); (b) collecting feedback data pertaining to the transaction (¶ 0185); (c) transmitting, to a directory service, a request for a provider of a second service (¶ 0189); (d) transmitting, to the directory service, at least a portion of the feedback data (¶¶ 0192-93); (e) receiving, from the directory service, a response based on the request and the portion of the feedback data (¶ 0208). dePinto, et al. does not explicitly teach the feedback data is collected automatically; which is taught by

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Force, et al. (Abstract; ¶ 0125). It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate the above teachings of Force, et al. into the method taught by dePinto, et al. because broadly providing an automatic means to accomplish a known activity is not sufficient to distinguish a claimed invention over the prior art. *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958).

6. As per claims 45-48, dePinto, et al. in view of Force, et al. teaches the method of claim 44 as described above. dePinto, et al. further teaches feedback data comprises: an evaluation of a service provided by the first service provider (¶ 0124); data representing a negative rating of the first service provider (¶ 0124); data representing a positive rating of the first service provider (¶ 0124); and a quality of content provided by the first service provider (¶ 0124).

7. As per claim 49, dePinto, et al. in view of Force, et al. teaches the method of claim 44 as described above. dePinto, et al. further teaches the response comprises a plurality of service locations (¶ 0208), further comprising selecting, from the plurality of service locations, a desired service location at least partly based on the feedback data (¶ 0207).

8. As per claim 50, dePinto, et al. in view of Force, et al. teaches the method of claim 44 as described above. Force, et al. further teaches (a) receiving, from the client, a second feedback data pertaining to a transaction by the client (¶ 0031); and (b) transmitting, to the directory service, the second feedback data, wherein the response is based on the second feedback data (¶ 0031). It would have been prima facie obvious to one having ordinary skill in the art at the time of invention to incorporate the above teachings of Force, et al. into the method taught by dePinto, et al. in view of Force, et al. because the duplication of steps has no patentable significance unless a new and unexpected result is produced. See *In re Harza*, 274 F.2d 669, 124 USPQ 378 (CCPA 1960).

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*Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. English, U.S. Pat. Pub. No. 2003/0055723 (Reference C of the attached PTO-892) teaches methods and systems that provide, at a virtual point-of-payment at which a user is paying for services, information for one or more alternative vendors from which the user may obtain the same or similar products; and also provides broad-based user ratings and simplified vendor switching. Kuno, et al., U.S. Pat. Pub. No. 2004/0064554 (Reference D of the attached PTO-892) teaches a network service system that comprises a service registry adapted to interact with registry clients; wherein the service registry includes a service registry interface operatively coupled to a service data registry and a metadata registry for processing unstructured queries from registry clients.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel P. Vetter whose telephone number is (571) 270-1366. The examiner can normally be reached on Monday through Thursday from 8am to 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on (571) 272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



JOHN W. HAYES  
SUPERVISORY PATENT EXAMINER